

Appl. No. 10/730,040

Amendment Dated November 15, 2005

Reply to Office Action of March 11, 2005 (three month response period.)

**Amendments to the Drawings:**

The attached sheets of drawings include changes to Figures 1, 4, 5, and 6. These sheets replace the original sheets that included the amended figures. Each of these figures has been labeled "Prior Art."

Attachment: Replacement sheets in Appendix following page 26

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### Remarks

By this amendment, claims 1 and 11-13 have been amended, independent and generic claims 1 and 11 are in clear condition for allowance; all dependent claims, including species claims should be allowable with the independent claims including claims 4, 5, and 7-10 which have been provisionally withdrawn pending allowance of a generic claim. Amendments to the claims were made merely for clarification and are not intended to limit their scope. Amendments have been made to the specification and to the drawings to address objections by the Examiner. The Examiner also suggested that the land surface areas of the claim be referred to as "high" land surface areas. The specification does not use the terminology of "high" surface areas, so other amendments have been made to the claims to clarify this point. Specifically, the claims recite that the land surface areas are the surface areas that extend into the interior of the corrugated side wall surface of the container.

### **Telephone Interview Summary**

The applicant would like to thank the Examiner for the Interview conducted on August 22, 2005. The topic of the interview was to address a previous election of species requirement from the Examiner in an Office Action dated December 20, 2004 and the art rejection of the claims. The requirement concerned election of one of the strip species of Figure 3 and Figure 13. As recorded by the Examiner, Figure 3 was elected. However, the elected and examined claims 1-3 and 6 clearly read on Figure 13 and not Figure 3. Accordingly, it is confirmed that the election should have designated Figure 13 and not Figure 3. During this interview, it was decided that the

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applicant would file this RCE and the Examiner made the suggestion that the container be positively recited in the body of the claim.

### **Election of Species**

As previously stated, elected Figure 3 does not correspond to the examined claims. The limitations of independent claim 1 are only illustrated in Figure 13 (and corresponding Figure 9) and not in Figure 3. Accordingly, Figure 13 should be the elected Figure to be considered in the process of examination of claims 1-3 and 6. Further, the examined claims should include claims 11-13 because these claims also correspond to Figure 13 and are not withdrawn. As stated in our previous interview, the Examiner agrees to consider claims 1-3, 6, and 11-13 and figure 13 as the proper election.

### **Objections to the Specification**

Replacement paragraph [0001] addresses the objection cited by the Examiner. Appropriate withdrawal of this objection is solicited.

### **Objections to the Drawings**

The newly amended drawings address all of the objections cited by the examiner. Appropriate withdrawal of these objections is solicited.

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### **Amendment Suggestion of the Examiner**

As mentioned above, the Examiner suggested that the container be recited in the body of the claim. Upon further consideration, the applicant decided not to include this limitation in the body of the claim because the container is not produced by the applicant and would likely not be produced by a potential infringer. Adding the container directly to the body of the claim would produce a claim that might be argued to be a divided claim, or a claim that would not be practiced by any one entity. This would mean that an infringer might argue that the claimed invention could be practiced in its entirety without infringement because more than one entity would be responsible for different parts of the claim. The container is recited in the preamble, and referred to in the body of the claim with respect to details of a lateral spacing of the adhesive strips. This recitation gives meaning to elements of the recited load restraining strip without specifically making the container a direct element of the claim. See Application of Duva, 55 C.C.P.A. 829, 835, 387 F.2d 402, 407 (1967).

### **Summary of the Rejections**

Claims 1-3 and 6 stand rejected under 35 U.S.C §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claims 1-3 and 6 also stand rejected under 35 U.S.C §102(b) as allegedly being unpatentable over US Patent No. 6,227,779 to Bullock, (hereafter referred to as "Bullock '779").

### **35 U.S.C §112, Second Paragraph Rejections**

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The 35 U.S.C. §112 rejections of claims 1-3 and 6 are overcome in light of the minor grammatical amendments to the claims shown above.

**35 U.S.C. §102(b) rejection over Bullock '779**

Applicant respectfully traverses this rejection.

Independent claim 1 features:

**“a plurality of transverse adhesive strips connected to an outer portion...and said adhesive strips extending transversely across said one end of said first strip of reinforcement material and being laterally spaced a distance to correspond to the lateral spacing of said high land surface areas of one of the side wall surfaces...”** (emphasis added)

Similarly, independent claim 11 features:

**“...a plurality of parallel transversely extending adhesive strips each having a first side and a second side and partially extending along and coating a portion of said second side of said second layer of monolithic material and being laterally spaced to correspond to the high land areas of the corrugated side wall of the intermodal container...”** (emphasis added)

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Bullock '779 teaches a cargo restraint method for securing cargo within transport containers which includes a restraining strip. As shown in Figure 3 and stated in column 5, line 64 – column 6, line 22, an “adhesive coating is coextensively applied to a first side of the restraining strip” and “a release paper 34 is applied...and is cut with perforation columns...Alternatively, separate, non-perforated, panels of release paper 38 may be used...” In column 6, lines 23-36, the reference goes on to note that adhesive and release paper may only be placed where it is necessary to be used and not along the full length of the restraining strip.

As noted in MPEP 2131, “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Bullock '779 does not meet this minimum criteria.

Regarding claim 1, in paragraph 14 of the previous Office Action, the Examiner states that Bullock '779 “includes a plurality of spaced transverse adhesive strips.” While the reference does allow for adhesive to be placed in “pre-selected portions of the strip” (column 6, line 25), it fails to teach the adhesive being applied in strips laterally spaced a distance to correspond to the lateral spacing of said land surface areas of one of the side wall surfaces as shown in independent claims 1 and 11. Therefore, the reference fails to teach, either expressly or inherently, each and every element as set forth in the claim.

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Also in paragraph 14, the Examiner states with respect to the applicant's prior Bullock '779 patent that: "To the extent that the adhesive strips in the Figure 5 embodiment are at least spaced to some degree to correspond to the land areas, they are deemed laterally spaced." This is a mischaracterization of the reference; nothing in the reference teaches or suggests that the adhesive strips are spaced to correspond to high land areas, just that the adhesive strips may be placed only in pre-selected areas such as only at one end.

Regarding claim 2, the Bullock reference '779 fails to teach or suggest the limitation of adhesive strips spaced to correspond to high land areas of the side wall surfaces as required in independent claim 1. For at least this reason, the reference fails to teach or suggest all the limitations of the claim.

Regarding claim 3, the Bullock reference '779 fails to teach or suggest the limitation of adhesive strips spaced to correspond to high land areas of the side wall surfaces as required in independent claim 1. Further, the Examiner states that strands 40 and 42 (in Figure 4a of Bullock '779) correspond to the first and second reinforcement strips of the claim. However, strands 40 and 42 are reinforcement strands that are a portion of a single restraining strip and strengthen the single strip. The first and second reinforcement strips of the claim are distinct from the strands 40 and 42 of the reference. For at least these reasons, the reference fails to teach or suggest all the limitations of the claim.

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Regarding claim 6, the Bullock reference '779 fails to teach or suggest the limitation of adhesive strips spaced to correspond to land areas of the side wall surfaces as required in independent claim 1. For at least this reason, the reference fails to teach or suggest all the limitations of the claim.

The Examiner also provided an additional reference of record to Blatt. This reference also fails to teach the limitations of the instant claims.



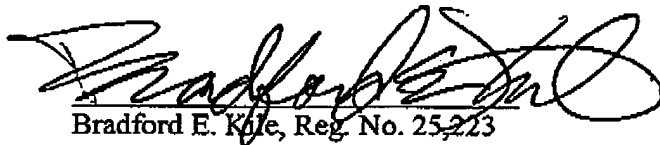
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**Conclusion**

In light of the amendment and the reasons set forth above, it is respectfully submitted that all of the pending claims are in condition for allowance.

If additional fees are required, the Commissioner is hereby authorized to charge any additional fees to the undersigned's deposit account number 11-0853.

Respectfully submitted,



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**Appendix A: Amended Drawings**